

REMARKS

Rejections under 35 U.S.C. § 112, first paragraph

The Examiner rejected claims 48-77 under 35 U.S.C. § 112, first paragraph, as containing subject matter not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Specifically, the Examiner stated that:

there is no teaching in the Instant specification what grape seed/skin extract is *actually the invention*. The ordinary artisan could *never* determine *what* extract containing *what* flavonoid the claims are referring to, even *after performing undue experimentation* due to the lack of information in the Instant specification. Therefore, the skilled artisan would have no reasonable expectation of success to ascertain what grape extracts the claims are referring to.

Applicant respectfully disagrees. The claims recite dietary supplements containing a grape seed extract, a grape skin extract, and at least one enzyme. In addition, the claims recite that the grape seed extract and the grape skin extract contain a flavonoid. A person having ordinary skill in the art reading Applicant's specification would have understood what is being presently claimed.

In addition, a person having ordinary skill in the art at the time Applicant filed would have been able to make and use the presently recited supplements without undue experimentation as evidenced by the accompanying Declaration signed by Dr. Suk Cho. For example, a person having ordinary skill in the art would have been able to use standard extraction techniques to make grape seed and grape skin extracts containing flavonoids. See, Paragraph 6 of Dr. Cho's Declaration. In addition, a person having ordinary skill in the art following the teachings of Applicant's specification would have been able to use standard laboratory techniques (e.g., measuring and mixing techniques) to make dietary supplements containing grape seed and grape skin extracts. See, Paragraph 7 of Dr. Cho's Declaration. Moreover, a person having ordinary skill in the art following the teachings of Applicant's specification would have been able to evaluate dietary supplements for the ability to inhibit platelet aggregation or protect LDL cholesterol from oxidation. See, Paragraphs 8 and 9 of Dr.

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Cho's Declaration. Thus, Applicant's specification fully enables the presently claimed invention.

In light of the above, Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. § 112, first paragraph.